THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 8th day of March,2007

W.P.No.13452 of 1996

Between:-

Ch.S. Krishnam Raju … Petitioner

and

The Chairman & Disciplinary Authority Sri Visakha Grameena Bank, P.B.No.33, Head Office : Reddy Buildings, Srikakulam and others … Respondents

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ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the 1st respondent-authority in issuing the Proceedings No.DP 70/95 dated 26-4-1995 confirming the order of dismissal in letter No.DP 262, dated 26-9-1994 passed by the 2nd respondent as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner into service with back wages and other attendant benefits.

It appears, by an Order dated 26-9-1994 of the 2nd respondent, the petitioner was dismissed from service, after subjecting to regular disciplinary proceedings. Aggrieved by the same, he carried the matter in appeal before the Board of the Bank. The Bank in its 119th meeting held on 22-4-1995 rejected the appeal of the petitioner upholding the action of the disciplinary authority. Challenging the same, the present Writ Petition is filed.

It is the case of the petitioner that while he was working as Clerk-cum-Cashier in the 3rd respondent-Bank, certain misappropriation of amounts of the Bank came to light on 19-4-1989, when one person, by name, Bheemunaidu approached the Bank for fresh loan. On verification of books of accounts by the Branch Manager, it was found that the previous loan was still outstanding, but the passbook showed that the entire loan amount was paid in April,1989 and on further

perusal of the books and ledgers, it was found that a total amount of Rs.33,004-40 ps was missing without entering into the registers. Basing on the said facts, the 3rd respondent-Bank lodged a complaint with the police against the petitioner on 21-4-1989, under Sections 409 and 477-A of the Indian Penal Code. Further, the authorities have initiated departmental proceedings and a charge sheet dated 18-12-1989 was issued. The Enquiry Officer submitted a report dated 13-5-1994 holding that the charges framed against the petitioner were proved and on the basis of the said report, the petitioner was dismissed from service on 26-9-1994. According to the petitioner, the charges framed by the disciplinary authority and the charges in the criminal case initiated against him were one and the same. The criminal Court while examining the entire evidence on record, found that he was not guilty. But, the Enquiry Officer found him guilty without considering the Judgment rendered by the Judicial First Class Magistrate, Cheepurupalli; but, simply held that every charge framed against him were proved without giving any reasons. Further, the criminal Court held that the petitioner alone cannot be held responsible for the misappropriation as the entries and vouchers have to be signed by the Manager alone including scroll books, ledger and passbook held by the customers. But, contrary to the said findings, the Enquiry Officer gave a finding that there is misappropriation of specified amount without deciding anything about the scroll books or passbooks. The Enquiry Officer has not given any reasons to come to such conclusion. The appellate authority also did not look into the matter properly and did not furnish any reasons for the rejecting the appeal, except saying that in the 119th Board meeting held on 22-4-1995, after careful examination of the appeal, the Board of Directors decided to uphold the action taken by the disciplinary authority.

Challenging the said Orders, the present Writ Petition is filed.

Heard both sides.

I have perused the impugned Orders and other material made available on record.

Against each sub-charge under Charge No.I, the explanation offered by the petitioner was not considered. Only the statement of P.W.1 along with exhibits were considered and at the end of this charge, it is stated that P.W.1 further deposed that the amount received by the petitioner was not accounted for in the branch books. Whereas, the petitioner contended that like in any other branch, even in their branch also, there was an established practice while dealing with cash receipts. According to him, he used to receive the amount across the counter, enter the vouchers in the scroll, put his signature and received stamp thereon and post them into the ledger account and pass books and then used to send it to the Branch Manager through the Messenger. The Branch Manager used to verify the posting and make an authentication in the ledger account as well as in the pass books and return the pass books to the borrower/depositor concerned. Petitioner further contended that the complaints are hoax and it can be ascertained only by two of the persons, who attended before the Enquiry Officer and he was completely unaware of the entries or initials put therein. This was brushed aside by saying that the contentions of the petitioner are not acceptable and the findings recorded by the Enquiry Officer were accepted by the disciplinary authority. Even against charge No.2 also, the petitioner contended that he has done everything as per the prescribed rules and regulations. No detailed discussion has been made against each charge and the Enquiry Officer also has not recorded the reasons to hold that the charges framed against the petitioner were proved. Of

course, insofar as the appellate authority is concerned, it is the Board's resolution, which in detail is not available. Only a communication dated 26-4-1995 was sent to the petitioner saying that the Board in their 119th meeting held on 22-4-1995, after careful examination, decided to uphold the action taken by the disciplinary authority. It appears, the scroll books, passbooks etc., were not properly verified and a sweeping statement is made that from the books of the bank, it was found that the previous loan was outstanding, but the passbook showed that the entire loan amount was paid in April,1989 and totally an amount of Rs.33,004.40 was missing without entering into the registers. The disciplinary authority except relying on the oral statement of P.W.1-U.Rambabu, no other detailed examination seems to have been conducted on their own. It is purely on the basis of the statement of P.W.1, who purported to have perused the different exhibits marked and deposed before the Enquiry Officer. No independent finding was recorded either by the disciplinary authority or the appellate authority.

In view of the above and since the disciplinary authority has not applied its mind properly, the impugned Orders suffer from reasoning and therefore, arbitrary. As such, the Orders of the 2nd respondent dated 26-9-1994 as confirmed by the Orders of the 1st respondent dated 26-4-1995 are liable to be set aside and are accordingly set aside. The matter is remanded to the disciplinary authority for reconsideration of the entire issue, afresh, on the basis of the recorded evidence and also taking into consideration the acquittal of the petitioner in the criminal cases. The disciplinary authority is directed to dispose of the matter within a period of eight (8) weeks from the date of receipt of a copy of this order, after putting the petitioner on notice and hearing him personally. Till such time, the status quo as on

today, as to the status of the petitioner as an employee of the Bank, shall be maintained.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

08-3-2007

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